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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Sergey Magnitskii

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EXAMINER

HUBER, PAUL W

ART UNIT

PAPER NUMBER

2653

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/616,965	<b>Applicant(s)</b> MAGNITSKII ET AL.	
	<b>Examiner</b> Paul Huber	<b>Art Unit</b> 2653	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 and 52-73 is/are pending in the application.
- 4a) Of the above claim(s) 4-9, 16-19 and 26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20, 21, 23-25 and 52-63 is/are allowed.
- 6) ☒ Claim(s) 1-3, 10, 12, 14, 15, 22, 68, 69, 72 and 73 is/are rejected.
- 7) ☒ Claim(s) 11, 13, 64-67, 70 and 71 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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Applicant's election of species 16, Figs. 9B and 10A, claims 1-3, 10-15, 20-25 and 52-73 readable thereon, in the reply filed on October 11, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 10, 12, 14, 15, 22, 68, 69, 72 and 73 are rejected under 35 U.S.C. 102(e) as being anticipated by Glushko et al. (USP-6,009,065).

Regarding claims 1-3 & 22, 72 & 73, Glushko et al. discloses a multilayer fluorescent information-carrying optical disc (multilayer disk); a source of reading radiation (CW laser diode); means for focusing the reading radiation into a micro-spot on the multilayer disc (objective lens); means for spatially separating the reading radiation from information-carrying radiation (dichroic filter); and means for detecting an availability of bit information in the micro-spot (four-part photodiode). See figures 1 & 2. See also, col. 4, lines 2-30, and col. 5, lines 8-11. Glushko et al. further teaches that the pits or 'written cells' each have a width of 0.5  $\mu\text{m}$  (col. 6, line 41). It is inherent that the disc includes a micro-spot of a width of about 0.6  $\mu\text{m}$  which includes therein a pit or 'written cell' having a width of 0.5  $\mu\text{m}$ . Therefore, it is further inherent that a plurality of micro-spots are provided in the disc with the micro-spots comprising pits, each having widths of about 0.6  $\mu\text{m}$  as claimed.

Regarding claims 10, 12, 14, 15, 68 & 69, Glushko et al. further discloses the claimed light controlling element for increasing an amount of the information carrying radiation which reaches the detector, which reads on the steering mirror for tracking error control of the light beam. See figure 6. "[W]hen the track position is right/left shifted towards to the laser spot the image position remains unchanged at the PD plane. In this case, however, the only some part of fluorescent pit is illuminated, resulting in a light redistribution at the PD plane and differential signal appearance" (col. 11, lines 18-23). Thus, Glushko et al. discloses a light-controlling element (tracking steering mirror) for reflecting towards the detecting means (four-part PD) at least part of the information-carrying radiation that is

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moving away from the detecting means, (i.e., when beam becomes either right shifted or left shifted), thus increasing an amount of the information-carrying radiation which reaches the detector. Note: when, for example, the light-controlling element corrects the tracking position of a right shifted beam, at least a part of the information-carrying radiation that is moving away from sections 1 & 2 of the detecting means is returned to the sections 1 & 2 of the detecting means thereby increasing an amount of the information-carrying radiation which reaches the sections 1 & 2 of the detecting means. Accordingly, Glushko et al. discloses the invention as claimed.

Claims 11, 13, 64-67, 70 and 71 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 20, 21, 23-25 and 52-63 are allowed.

Applicant's arguments filed February 28, 2005 have been fully considered but they are not persuasive. Regarding claim 1, the applicant argues that Glushko does not anticipate that the disc includes a plurality of micro-spots comprising pits, grooves, or both, each having widths of about 0.6  $\mu\text{m}$  for increased transmission of data-carrying radiation. The examiner respectfully disagrees. As explained in detail in the rejection above, Glushko teaches that the pits or 'written cells' each have a width of 0.5  $\mu\text{m}$  (col. 6, line 41). It is inherent that the disc includes a micro-spot of a width of about 0.6  $\mu\text{m}$  which includes therein a pit or 'written cell' having a width of 0.5  $\mu\text{m}$ . Therefore, it is further inherent that a plurality of micro-spots are provided in the disc with the micro-spots comprising pits, each having widths of about 0.6  $\mu\text{m}$  as claimed.

The applicant further argues regarding claim 10 that since the claim has been amended to recite that the light-controlling element reflects at least part of the information-carrying radiation toward the detecting means, namely, that part that is moving away from the detecting means, Glushko does not anticipate the claim as amended. The examiner respectfully disagrees. As explained in detail in the rejection above, Glushko discloses the claimed light controlling element for increasing an amount of the information carrying radiation which reaches the detector, which reads on the steering mirror for tracking error control of the light beam. See figure 6. "[W]hen the track position is right/left shifted towards to the laser spot the image position remains unchanged at the PD plane. In this case, however, the only some part of fluorescent pit is illuminated, resulting in a light redistribution at the PD plane and differential signal appearance" (col. 11, lines 18-23). Thus, Glushko discloses a light-controlling element (tracking steering mirror) for reflecting towards the detecting means (four-part PD) at least part of the information-carrying radiation that is moving away from the detecting means, (i.e., when beam becomes either right shifted or left


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shifted), thus increasing an amount of the information-carrying radiation which reaches the detector. Note: when, for example, the light-controlling element corrects the tracking position of a right shifted beam, at least a part of the information-carrying radiation that is moving away from sections 1 & 2 of the detecting means is returned to the sections 1 & 2 of the detecting means thereby increasing an amount of the information-carrying radiation which reaches the sections 1 & 2 of the detecting means. Accordingly, Glushko discloses the invention as claimed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Paul Huber at telephone number 703-272-7588.



Paul Huber  
Primary Examiner  
Art Unit 2653

pwh  
January 6, 2006